

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ADRIAN KENDAL,

Plaintiff,

v.

PIERCE COUNTY HUMAN
SERVICES AGING & DISABILITY
RESOURCES, et al.,

Defendants.

CASE NO. C20-5148 BHS

ORDER

THIS MATTER is before the Court on pro se Plaintiff Adrian Kendal's Motion for Appointment of Counsel. Dkt. 12. Kendal is proceeding *in forma pauperis*.

No constitutional right to counsel exists for an indigent plaintiff in a civil case unless the plaintiff may lose his physical liberty if he loses the litigation. *See Lassiter v. Dept. of Social Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), the Court has the discretion to appoint counsel for indigent litigants who are proceeding *in forma pauperis*. *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

1 The Court will appoint counsel only under “exceptional circumstances.” *Id.*;
2 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional
3 circumstances requires an evaluation of both the likelihood of success on the merits and
4 the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the
5 legal issues involved.” *Wilborn*, 789 F.2d at 1331 (internal quotations omitted). These
6 factors must be viewed together before reaching a decision on whether to appoint counsel
7 under § 1915(e)(1). *Id.*

8 While Kendal has established her indigency, she has not attempted to establish,
9 and has not established, that exceptional circumstances exist, supporting appointing her
10 counsel. She has not established that she is likely to succeed on the merits of her claim.
11 Her Motion to Appoint Counsel, Dkt. 12, is therefore **DENIED**.

12 **IT IS SO ORDERED.**

13 Dated this 12th day of January, 2021.

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16 BENJAMIN H. SETTLE
17 United States District Judge
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